



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

Procurement
Instruction
Memorandum
No .98-11
Dec. 30, 1998

MEMORANDUM FOR BUREAU CHIEF PROCUREMENT OFFICERS

FROM: Annelie **M.** Kuhn, Acting Director *Annelie Kuhn*
Office of Procurement

SUBJECT: DTAR Change 98-04, Waiver of Synopsis Requirement for Small
Business Set-Asides

Purpose: This DTAR Change outlines the circumstances under which the synopsis requirement can be waived for small business set-asides between \$25,000.00 and \$100,000.00.

Effective Date. This PIM applies to all acquisitions issued on/after 24 December 1998.

Expiration Date. This PIM will expire on 30 December 2000.

Background: In accordance with FAR 5.202(b), the Senior Procurement Executive has granted a waiver of the requirement to synopsise requirements for services from competitive small businesses between \$25,000 and \$100,000, the simplified acquisition threshold (SAT).

Contracting Officers may waive the synopsis requirement under the following circumstances:

- (a) the acquisition is for services in amounts over \$25,000, but not exceeding the SAT, of which supply items are expected to constitute less than 20 percent of the total value of the contract;
- (b) the acquisition will be set-aside for small businesses;
- (c) quotes or offers will be solicited from a minimum of five small business concerns;

- (d) Small Business Administration's (SBA) PRO-Net or other resources will be used to identify a minimum of five small businesses, which will include, if available, at least one small disadvantaged and one women-owned firm; and
- (e) if practicable, two sources not included in the previous solicitation for the same services will be solicited.

TPDS Reporting Procedures

Contracting Offices should continue to report all contract actions for services between \$25,000.00 and \$100,000.00 using the existing Federal Procurement Data System (FPDS) reporting instructions. The Office of Federal Procurement Policy (OFPP) and the Small Business Administration (SBA) will use FY 98 FPDS data to establish a baseline that identifies actions and dollars for services between \$25,000.00 and \$100,000.00 from small, small disadvantaged, and women-owned small businesses and large businesses. The baseline will include new definitive contracts (SF 279, Item 9, Code C), simplified acquisitions (SF 279, Item 9, Code D), and task orders under basic ordering agreements and indefinite delivery contracts (SF 279, Item 9, Codes E, F, and L) that have been synopsisized prior to award. This data will be analyzed at a later date to determine the effectiveness of the waiver.

The attached waiver, along with the SBA and OFPP concurrence, delineates the applicable conditions for the waiver.

Action: Remove DTAR pages:

5-1

Insert DTAR pages:

5-1 through 5-2

The following summarizes the changes:

Added DTAR 1.005.202(b)(1) to waive synopsis requirement for small business set-asides between \$25,000.00 and the simplified acquisition threshold.

Attachments

**PART 1005 - PUBLICIZING
CONTRACT ACTIONS**

“Department of the ~~Treasury~~ (DY)” and name of the bureau.

Subpart 1005.2 – Synopses of Proposed Contract Actions

1005.202 Exceptions.
1005.207 Preparation and transmittal of synopses.

Subpart 1005.3 – Synopses of Contract Awards
1005.301 General.

Subpart 1005.4 – Release of Information

1005.403 Requests from Members of Congress.
1005.404 Release of long-range acquisition estimates.
1005.404-1 Release procedures.

Subpart 1005.5 – Paid Advertisements
1005.502 Authority.

Subpart 1005.2 – Synopses of Proposed Contract Actions

1005.202 **Exceptions.**

(a) A copy of the determination will be retained in the contract file.

(b) Authority to make the required determination is delegated to the SPE. Submit requests ~~per~~ 1001.7000(a). Retain determination in the contract file.

(1) The Department has waived the requirement for advance CBD notices for small business set-asides between \$25,000 and the simplified acquisition threshold. A minimum of five small businesses, which includes, if available, at least one small disadvantaged and one women-owned firm, should be solicited. **See PIM 98-11**, including the SPE waiver dated December 30, 1998)

1005.207 **Preparation and transmittal of synopses.**

(b)(4) Each synopsis shall include

Subpart 1005.3 – Synopses of Contract Awards

1005.301 **General.**

(a) Document the contract file if the CO decides not to synopsize an award not likely to result in the award of subcontracts.

(b) Document the contract file with the reason why a contract award was not synopsized.

Subpart 1005.4 – Release of Information

1005.403 **Requests from Members of congress**

(a) BCPO’s, without redelegation, shall provide prompt written notification of all Congressional inquiries regarding acquisitions to the **SPE**.

1005.404 **Release of long-range acquisition estimates.**

1005.404-1 **Release procedures**

Heads of bureaus are authorized to release long-range acquisition estimates.

Subpart 1005.5 – Paid Advertisements

1005.502 **Authority.**

(a) Other statutes or laws may grant separate authority for paid advertisements. Heads of bureaus or their designees are authorized to approve procurement of paid advertising for supplies or services. Paid advertising for personnel recruitment notices shall have the concurrence of the bureau personnel officer or designee. No advertisement shall be placed in a newspaper published and printed in the District of Columbia unless the supplies or services will be furnished, or labor performed, in the District of

Columbia or adjoining counties in Maryland or Virginia.

U.S. Department of the Treasury

Determination and Findings

To

**Waive the presolicitation Commerce Business Daily (CBD) notices
for small business set-asides between \$25,000 and \$100,000.**

Upon the basis of the following determination and findings, which I make pursuant to the Office of Federal Procurement Policy Act, 41 U.S. C. 416, and the Small Business Act, 15 U.S. C. 637, as implemented by Federal Acquisition Regulation (FAR) section 5.202(b), the requirement for advance CBD notices for small business set-aside acquisitions between \$25,000 and the simplified acquisition threshold (**SAT**) is waived under certain conditions.

Findings

1. FAR 5.201 requires Federal agencies to publish an advance notice of proposed acquisition actions in the CBD prior to or upon the release of the solicitation. The intent of this regulation is to improve the participation of American small business concerns in Government acquisitions and to enhance competition by publicizing contracting and subcontracting opportunities. FAR 5.202(b) permits this requirement to be waived if the agency head determines that the advance notice is neither appropriate nor reasonable. Department of the Treasury Acquisition Regulation 1005.202(b) delegates that authority to the Senior Procurement Executive.
2. FAR 5.2 requires widespread notice and generally a 45-day notice and wait period for all new procurement actions over \$25,000 and below the simplified acquisition threshold. This notice and wait period directly lengthens procurement lead time. In addition, widespread notice usually generates an unnecessarily large number of offerors, increasing the resources required to complete the evaluation and further extending the procurement process. In contrast, competition among multiple task order contracts is a more streamlined, and more attractive; alternative. Procurement offices realize efficiencies when they award multiple award task order contracts to a limited number of highly qualified contractors and issue tasks following quick, commercial-style competition among those contractors.
3. We, therefore, believe that the notice requirement in FAR 5.2 discourages competitions for new contracts in the smaller dollar amounts that could generate greater small business interest. We have concluded that the FAR 5.2 notice requirement undermines the efficiency of the procurement process and reduces opportunities for small business and small disadvantaged business concerns to participate in smaller dollar procurements.

4. The efficiency of the Department's procurement system and the Department's commitment to assisting small business and small disadvantaged business concerns are better served if the notice requirement is waived under the following circumstances:

- (a) the acquisition is for services in amounts over \$25,000, but not exceeding the SAT, of which supply items are expected to constitute less than 20 percent of the total value of the contract;
- (b) the acquisition will be set-aside for small businesses;
- (c) quotes or offers will be solicited from a minimum of five small business concerns;
- (d) SBA's PRO-Net or other resources will be used to identify a minimum of five small businesses, which will include, if available, at least one small disadvantaged and one women-owned firm; and
- (e) if practicable, ~~two~~ sources not included in the previous solicitation for the same services will be solicited.

Determination

Based on the above findings, I determine that the advance notice requirements of FAR 5.2 are neither appropriate nor reasonable, and should be waived when the circumstances in paragraph 4 are present. This determination is made pursuant to FAR 5.202(b), after consultation with the Administrator of the Office of Federal Procurement Policy and the Administrator of the Small Business Administration.

Annelie M. Kuhn
Annelie M. Kuhn
Senior Procurement Executive

12/30/98
Date